3

1

B - class.

App. F. IX—4

Previous References.

(19 57)

File No. AFD 31 FLD

Serial Nos.

Agr. Dept.

Later References.

Forest Rs

MYSORE GOVERNMENT SECRETARIAT

Serial Nos.

Part B for

SUBJECT

Encroachment of an area of 20 Gunthas — Majali.

WD 04708—GPB—1,00,000—17-11-59

A
1/11/04

(P)
14/6/57
19/7/57

ಇಂಯಲ್ಲಿಸ್ಕೆ?
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಅರಣ್ಯ, ಪಾ.ರ ಮತ್ತು ಜೀವಿ
ಶಾಸ್ತ್ರ ಇಲಾಖೆ (ಅರಣ್ಯ-ಬಿ)

Remark.

Mysore Government Secretariat

Encroachment of an area of 20 Gs from M/s N.º 287 of Majali Le. Smt [App. F. III 2
Indumati Sadashiv Desai of Majali.

File No. AFD 31 PLD 57

Serial No.

AFD 31 PLD 57

letter No. B3-145 2161/56 Dated 2-4-1957 from the C.C.F. requesting that a piece of land measuring 20 Gs out of M.S. N.º 287 Majali in Karwar Taluka, Dist. N. Kanara which is encroached by Smt. Indumati Sadashiv Desai of Majali, may be disforested and handed over to the R.D. for granting the same to Smt. Indumati. He has further pointed out that the action of the Collector N. Kanara in recovering the penal occupancy price without consulting the C.C.F. is highly irregular and this may be brought to the notice of the Collector.

A draft G.O. as proposed by the C.C.F. in this connection is put up for approval. A separate letter to the Collector as pointed by the C.C.F. about the irregularity in recovering the penal O.P. by him, is put up for approval.

(Should the Office to examine & form SK order separately since it is not be a Non-Indian a particular occasion?)

16/4/57

G. Pathak

16.4.57

The proposal of the C.C.F may be approved

Secy (A.F.)

Min. (Agri.) 20/4

After the issue of the G.O. the C.C.F will submit draft notification reg disforestment of the area. Draft G.O. may be approved

Notification will be for the purpose & disforestment.

Dy Secy

D.C.

16/4/57

G. Pathak 31/5/57.

B' 2M 12/10/57

705 HFA

OF THE MINISTER FOR AGRICULTURE
No. 1549
19 APR 1957
BANGALORE

Note.—Contn. Sheet

File No. AF D 31 PLD 57 of 195

Mysore Government Secretariat

Serial No.

Draft letter put up on page 11/c may pl be signed.

Ws 11/5/57

E.P. Pillai 12/5/57

Letter No. S.105/8722, dated 11-6-57, from the Collector of Kanara Reminding Govt to issue orders early. Govt orders have been issued on 11-5-57. Hence the Collector may be informed accordingly & he may be reminded to furnish Govt with the information required by Govt under their letter dated 20-5-57. A draft letter to the ~~C.C.F~~ Collector is put up for approval.

Ws 19/10/57

17/c

Letter No. S.105/8722, dated 11-6-57, from the Collector of Kanara requesting to return the case papers sent by him under his endt dated 25-10-56. All the case papers have been sent to the C.C.F. along with the L.O. The Collector may be informed accordingly. A draft letter to the Collector is put up for approval.

13/c

19/c

Encls 2 PPs

Ws 24/11/57

C. F. No. 45]

GOVERNMENT OF MYSORE

Telegram
phone

OFFICE OF

Chief Conservator of Forests
in Mysore, Bangalore.

No. B3-145-2161 /56
Encls. one file

MYSORE GOVERNMENT SECRETARIAT
NO. A.D.29
5 - APR 1957
ANIMAL HUSBANDARY & FOREST BRANCH

Date 2-4-1957

To

The Secretary to Government,
Agriculture & Forest Departments,
Bangalore.

Sir,

Subject: Encroachment of an area of 20 guntas from M.F.S.No.287 of Majali.

I enclose herewith the case papers ending with No.22/8/3130, dated the 28/29th January, 1957 of the Conservator of Forests, Belgaum Circle, Belgaum. The encorachment is deliberate and cannot therefore, be regularised, ~~ordinarily~~ according to the provisions of the G.R., Agriculture & Forest Department No.FDM 1054 of 7-3-1955 (copy enclosed). But under the special circumstances explained by the Conservator of Forests, Belgaum Circle, an extent of 20 gunthas from the M.F.S. No.287 of Majali may be ordered to be disafforested and handed over to the Revenue Department in view of the fact that the Collector has already recoved the penal occupancy price of Rs 200/- which is reasonable and the occupant viz: Smt. Indumati Sadashiva Desai (Naik) will be put to heavy loss of Rs 2300 ~~and~~ to Rs 3000/- which has been spent by her in erecting the house.

2. I request that orders of Government may be obtained for the disafforestation and communicated to me early. The enclosures may be returned when no longer necessary.

3. The Collector of North Kanara's action in recovering the Penal occupancy price in the face of the protest from the officers of the Forest Department and without consulting the Chief Conservator of Forests, B.S.Poona is highly irregular. This may please be brought to the notice of Collector, North Kanara.

Yours faithfully,

M. G. Dhanikachalam

Chief Conservator of Forests

Encls: (

SECRETARIAT
No.....
3 - APR 1957
HOME, FOREST & ...

3/C 5/

Copy of the Govt. Resolution No.FDM.1054 dated 7-2-55 from the Govt. of Bombay, Agriculture and Forests Departments Bombay.

Forest Lands Bombay State Regularisation of encroachments on

--

Read:- Government Resolution No.FLD.1353/46390, dated the 3rd Novr.53.

Letter No.O/A-1844 dated the 12-1-55 from the Collector of Kanara.

RESOLUTION In supersession of the orders issued in Govt. pleased ~~xxxdirxxx~~ Resolution mentioned above, Govt. is pleased to direct th encroachments in forest lands in the Bombay state should be regulari and the areas encroached granted to the encroacher or in the alter. native cleared according to following instructions:-

(1) If the land encroached be such that it is abailable for grant under the new orders of Govt. dated the 8th July 54 and 16-10-54 and dated 28-1-55, regarding grant of forest land for cultivation then it can be given to the encroacher on a permenent basis. For example if the land would have been given on sanad for planting g fruit trees, an encroachment for such a ~~xxx~~ purpose can be regularised by issue of sanad.

(2) An encroahchment in continuation of a Hangami lease may be treated as a regular Hangami Lagan unless the Forest Department had issued a notice in time that the lease would not be renewed.

(3) Encroachments for the purpose of building residentail houses by houseless people, may be regularised by grant unless such grant is prejudicial for forest administration.

(4) Small areas (not exceeding 10 gunthas) encroached by owners of adjacent private lands eigher by bona fide mistakes or for the purpose of straightening the boundaries line, etc, may be regulariesed by grant of the area.

(5) All other encroachments for Agricultural purposes shou be removed.

(6) Encroachments for non-agricultural purposes not falling within (3) above should be considered each of its merits.

(7) For granting lands encroached for cultivation purposes excepting those which are in continuation of Hangami leasses, and in case at (3) above, penal occupancy price of Rs.5/- per guntha should be charged. The Collectors may red this price in suitable cases of poor encroachers.

Government is further pleased to clarify that the above conce should be limited to cases of proved bonafides and necessity, that nothing should be done which would put a premium on deli encroachments.

--

" COPY "

FOR CHIEF CONSERVATOR OF FORESTS.

5/C 6

Letter. Subject: Encroachment case of Shrimati Indumati Kom Sadashiv Desai of Majali for having encroached upon an area of 20 gunthas from M.F.S.No.287 of Majali.

No.22/8/ 3130 of 1956-57.
Via Belgaum, 28 January, 1957.

To

The Chief Conservator of Forests
in Mysore, Bangalore.

One Shrimati Indumati Sadashiv Desai (Naik) of Majali had encroached upon an area of 20 gunthas from M.F.S.No.287A of Majali for construction of a house and a cattleshed. The encroachment was noticed by this Department on 12.4.52 and necessary offence papers drawn up. The D.F.O.in his No.IV-24 of 10.9.52 had ordered to recover Rs. 50/- and remove the encroachment.* Hence the D.F.O. in his No.G/11/3091 dated 19/20.6.52 (P.85) requested the Collector of Kanara to take action to evict her by coercive measures. The Collector of Kanara in his No.S.105/8722 of 25.8.54 (P.120) informed the D.F.O.to ask the encroacher to credit the minimum penal occupancy price to revenue deposit within the prescribed time and release the area to her (encroacher) on Hangami Lagan pending its final disforestment. The D.F.O.in his No.G/11/7084 of 21/24.9.54 (P.123) objected to the grant and requested the Collector of Kanara for reconsideration for the following reasons :-

*The applicant offender paid the compensation of Rs.50/- as ordered by the D.F.O.but did not remove encroachment.

(i) The encroachment was deliberate one.

(ii) There were objections from others against the grant.

2. The Collector of Kanara in his No.S.105/8722 of 7.4.55 (Page 146) informed the D.F.O. that the objection from others did not deserve any consideration. It is seen from the receipted chalan at page 151 that the encroacher had remitted Rs. 200/- as penal occupancy price.

3. It appears that the Collector of Kanara ordered the area to be released according to Government orders contained in G.R.A.& F.D.,No.FLD-1353/46390 of 3.11.53 (copy enclosed). According to para 4(d) of the above said G.R., the encroached area is to be granted to the encroacher on H.L.pending final disforestment when it is agreed to by the Collector and the Chief Conservator of Forests, B.S.,Poona. From the case papers it appears that the matter was not referred to by the Collector to the Chief Conservator of Forests, B.S.,Poona. When the case was under correspondence, the Government had revised their policy in G.R.A.& F.D.,No.FDM-1054 of 7.3.55 regarding regularrisation of encroachment on forest land in the Bombay State. The Collector of Kanara in his No.S.105/ 8722 of 22.10.55 (P.162) returned the case to the D.F.O.for report whether the encroachment can be regularised in view of G.R.A.& F.D.,No.FDM-1054 of 7.3.55. The regularisation of this encroachment was not recommended by the D.F.O. in his No.G/11/16318 of 13.3.56 (P.187) for the following reasons :-

(i) The encroachment was deliberate one.

(ii) It was not out of necessity as the encroacher could have erected a residential hut in her own uncultivated area of M.S.Nos. 288 & 289 of Majali.

D T O

4. The Collector of Kanara in his No.S.105/8722 of 24.3.56 (P.188) referred the matter to this office for opinion. The encroachment was alsom not recommended under this office No.22/8/3151 of 23.5.56 for being regularised in view of paras 3 & 7 of G.R.A.& F.D.No. FDM-1054 of 7.3.55 as the encroachment was not only prejudicial to forest administration, but also a deliberate one and not out of bonafide necessity. But the Collector in his No.S.105/8722 of 25.10.56 has again requested this office to reconsider the matter in view of the fact that the encroacher had paid Rs. 200/- as penal occupancy price.

5. The encroachment cannot be recommended for being regularised in view of Government orders contained in G.R.A.& F.D.,No.FDM.1054 of 7.3.55 as stated above. But if the encroacher is asked to evict the encroached area, it can be seen, that she would be put to a heavy loss of Rs. 2,800/- to3,000/- which amount she has spent on building the house in the area. I therefore request you to please issue necessary orders in the matter so that the case may be brought to an end once for all.

6. The case papers pages 1 to 223 are ~~returned~~ sent herewith.

(N.S.Kaikini)
Conservator of Forests,
Belgaum Circle.

Rcd. 18.
GKC. 24.

IIc
8

Forest Lands.
Procedure for regularisation
of encroachments on --.

GOVERNMENT OF BOMBAY.
Agriculture and Forests Department.
Resolution No.FLD.1353/46390.
Bombay Castle, 3rd November, 1953.

Letter from the Collector of Kanara No.O/A/549, dated the 3rd August, 1953.

"In Government Resolution, Revenue Department, No. 3297/45, dated the 17th May, 1950, Government have laid down procedure regarding grant of encroached lands on public roads, streets, etc. It however, applies only to encroachments on Revenue Waste lands. It is also found essential to lay down some procedure in cases of encroachments on Forest lands.

2. Encroachments on Forest lands are first dealt with as Criminal Offences under Section 26 of the Indian Forest Act. If, however, the offence is of a technical nature and the encroachers are willing, such cases are compounded by recovering compensation upto a limit of Rs. 50/- under Sec. 68 of the Indian Forest Act. Forest materials, if any, removed or felled down illicitly, are also confiscated. The encroachers are then asked to vacate the encroached lands and if they do not vacate them, cases are sent to this Department for removal of encroachments under Section 202 of Land Revenue Code.

3. There are some cases, however, in which the Forest Department would not have refused to agree to disforestment if the application were made in proper way instead of presenting a fait accompli. In such cases forest Department does not agree to disforestment on the ground that regularisation of such cases would encourage others to take to the same illegal course. There were cases, wherein, while fully agreeing with the view taken by the Forest Department, it was found that removal of encroachments would cause considerable hardship to the encroachers. It was felt that such cases should be regularised but at the same time such penalty ought to be imposed as will discourage others to adopt the same course; penalty prescribed under the Indian Forest Act being not high enough.

4. Therefore, in consultation with the Chief Conservator of Forests, Bombay State, Poona, I propose the following :-

(a) Encroachments on forest lands should, as a rule, be removed. But, in exceptional circumstances, where,

(i) such removal may cause disproportionately heavy loss to the encroachers;

and

(ii) there is no objection for disforestment from forest point of view, except that such encroachments ought not to be encouraged,

encroachments should be regularised by granting the areas encroached upon to the encroachers after disforestment, at penal occupancy price.

P.T.O.

(b) The penal occupancy price to be charged should be not less than Rs. 10/- per guntha as may be fixed by the Collector in consultation with the Conservator of Forests, Southern Circle, Belgaum, in each case.

(c) This price will be, in addition to the value of the tree growth and compensation for the forest offence.

(d) When it is agreed to, by the Collector and the Chief Conservator of Forests, Bombay State, Poona, to regularise the encroachment, the encroached area should be granted to the encroacher on Hangami lease pending final disforestment.

5. A copy of the Chief Conservator's concurrence in this regard, is enclosed for ready reference.

6. Government may, therefore, please be moved to approve the above proposals."

Resolution - Government is pleased to approve the procedure suggested by the Collector of Kanara in paragraph 4 of his letter in respect of regularisationm of encroachments on forest lands.

By order and in the name of
the Governor of Bombay,

S.G.Walavalkar.
Additional Under Secretary to Government.

G.R.No.FLD.1353/46390, A.& F.D., dated, the 3rd November, 1953.

GKC.

LD 9/c

M. G. S. App. F VI—G. 2]

SUBJECT Encroachment - Open area of 20 Gts from MFS N. 287 of Majali Tal Karwar, by Smt. Indumati Sadashiva Desai of Majali

Diary No. of letter replied to.....

Section

Serial No.

Mysore Government Secretariat

File No.

( )

the 195 .

Proceedings of the Government of Mysore

Date of issue.....195

Signed by.....

Read— letter No. B3-145-2161/56, Dated ~~Dt~~ 2-4-1957, from the C.C.F. B'lore, requesting to disposed an area of 20 Gts. Encl- of MFS N. 287 of Majali Tal Karwar, Dist. N. Kanara, which has been encroached by Smt. Indumati W/o Sadashiv Desai of Majali, under the circumstances reported in his letter

~~Order thereon.—~~ No.

Order No. APD 31. FLD 57 Dt. 11.5.57

An area of 20 Gts Encl- of MFS No. 287 of Majali, on which Smt- Indumati W/o Sadashiv Desai of Majali has erected a house and a cattle shed, ~~shall~~ should

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Issued
11.5.57

be disforested and handed over
to the R.D. for disposal to the
encroacher for non-agricultural
purposes. (~~Forest Dy~~)

By order etc.

2/

Dy Secy to Govt
Rev(5)4/57 dated 20/3/57.

To The C.C.F.
~~The Collr of Kanara~~ Bangalore.
2) He should submit to Govt
draft notification for disforestment
of the piece of land under reference.

Copy forwd to the Dir Commissioner,
Belgaum for information.
Copy forwd to the Collector of Kanara
Karwar for information with
Ref to his endt No. S.105/8726 dt 25-10-1956.

List of Enclosures.

Copied by Ref. below.

Examined by

41/C

Appendix F. G.—1]

SUBJECT Encroachment of an area of 2a 2g 2n/s out of Sy.No.125 No.28 of Majali Tal Karwar, by Smt. Dundumati Sadashiva Desai of Majali

Diary No. of letter replied to .....

Section

File No.

Serial No.

Mysore Government Secretariat.

( )

the 195 .

No. AFD 31 FLD 57 & copy of letter

To

The ~~C.C.F.~~ Collector of N. Kanara Karwar

Date of issue ~~Issued~~ 20.5.57.

Sir,

Signed by .....

In continuation to G.O. No. AFD 31 FLD 57 dated 11-4-57 on the subject noted above (amended to request you to refer for remarks on para 3 (copy enclosed) of the letter from the C.C.F. Bangalore bearing No B3-1405-2161/56 dated 2-4-57

I am directed to state that the C.C.F. B'lore has brought to the notice of Govt that you did not consult the C.C.F. Bg Poona as per provisions of the G.R. AFD (Bday) No ~~AGF~~ FLD 1358/46390 of 3-11-1953 (Vide para No. 4(d) of the GR) about the regularisation of the encroachment before the recovery of the penal occupancy price of the land. This is highly irregular. In future the C.C.F. B'lore may be cons

List of enclosures .....

Copied by .....

Examined by .....

WD-05447-GPB—P.Z.S.—90,000-27-9-56.

18/4/57

in such cases before it is decided to regularise encroachments.

J. F.

Dy Sec'y to Govt.
Ag/CD

14 10/c

PROCEEDINGS OF THE GOVERNMENT OF MYSORE

Read:-

Letter No.B3.145-2161/56 dated ~~2~~ 3-4-1957 from the Chief Conservator of Forests, Bangalore, requesting to disforest an area of 20 guntas out of M.F.S.No.237 of Majali Taluk Karwar, District North Kanara, which has been encroached by Smt.Indumati wife of Sadashiv Desai of Majali, under the circumstances reported in his letter.

ORDER NO. AFD 31 FLD 57

Bangalore, dated, 11.5.57

An area of 20 guntas out of M.F.S.No.237 of Majali, on which Smt. Indumati, wife of Sadashiv Desai of Majali has erected a house and a cattle shed should be disforested and handed over to the Revenue Department for disposal to the encroacher permanently for non-agricultural purposes.

By Order and in the name of the
Governor of Mysore,

(M.N.Gundu Rao)
Deputy Secretary to Government,
Agriculture and Forest Departments.

To

10.5.57

The Chief Conservator of Forests in Mysore, Bangalore
with papers of the case.

2. He should submit to Government draft notification for disforestment of the piece of land under reference.

Copy forwarded to the Divisional Commissioner, Belgaum for information.

Copy forwarded to the Collector North Kanara, Karwar for information with reference to his endorsement No.S.105/3723 of 25- 0-56.

bnr
9/5

15/c 15

Copy of letter No.B3-145-2161/56 dated the 2nd April, 1957 from the Chief Conservator of Forests in Mysore, Bangalore, to the Secretary to Government, Agriculture & Forest Departments, Bangalore.

Sub:- Encroachment of an area of 20 guntas from M.F.S. No.287 of Majali.

...

I enclose herewith the case papers ending with No.22/8/3130, dated the 28/29th January, 1957 of the Conservator of Forests, Belgaum Circle, Belgaum. The encorachment is deliberate and cannot therefore, be regularised, according to the provisions of the G.R., Agriculture and Forest Department No.FDM 1054 of 7-3-1955 (copy enclosed). But under the special circumstances explained by the Conservator of Forests, Belgaum Circle, an extent of 20 guntas from the M.F.S. No.287 of Majali may be ordered to be disafforested and handedover to the Revenue Department in view of the fact that the Collector has already recovered the penal occupancy price of Rs.200/- which is reasonable and the occupant viz., Smt. Indumati Sadashiva Desai (Naik) will be put to heavy loss of Rs.2800 to Rs.3000/- which has been spent by her in erecting the house.

2. I request that orders of Government may be obtained for the disafforestation and communicated to me early. The enclosures may be returned when no longer necessary.

3. The Collector of North Kanara's action in recovering the Penal occupancy price in the face of the protest from the officers of the Forest Department and without consulting the Chief Conservator of Forests, B.S.Poona is highly irregular. This may please be brought to the notice of the Collector, North Kanara.

.....

17/9/57

Letter

17/C

16

To

The Deputy Secretary to Government,
Agriculture and Forests,
Mysore State, Bangalore.

No.S 105/8722 Karwar, 11-6-1957.

Subject: Grant of 20 gunthas land in Minor F.S.No.287 of Majali in Karwar taluka in favour of Shrimati Indumati wife of Sadashiv Desai.

Reference: Govt.letter, A.& F.D.No.AFD.31 FLD.57 dated 11-5-1957.

The original correspondence submitted to Government under this office No.S 105/8722 of 25-10-1956 may please be sent to this office for taking further action.

Not received

P.A.
for Collector of Kanara.

17 1/c

M. G. S. App. F VI—G. 2]

SUBJECT Grant-D-da Ls of Land in Misc. T.S. No 287 of Majali in Karwar Taluka in favour of Shrimati Indubai W/o J. Sebastian Deasi

No. AI-D 31 FLD 57 of 22.11.57

Diary No. of letter replied to.....

Section

Serial No.

File No.

Mysore Government Secretariat

( )

the 195 .

Proceedings of the Government of Mysore

Date of Issue.....195

Read—

1) The Collector of Kanara Karwar.

Signed by.....

Issued 22.11.57

Sir,

Ref:- Your letter No. G.105/8722/57-58 dated 11-6-57, on the above subject.

2) I am directed to inform you that the original correspondence has already been returned to the C.C.F. B'lore, along with a copy of the Govt. Order thereon. No.

May this be—

(i) printed?
(ii) treated as a Standing Order?
(iii) published in the Gazette, English Part?
(iv) translated?
(v) placed at the disposal of the Press?
(vi) published in the Gazette, Kannada Part?

Y. J.
Dy Secy to Govt
Agl. D.
19/11/57

Copy given to the C.C.F. B'lore for information, and with a request

to submit to Govt. draft notification reg disforestment of the land under reference, at an early date.

List of Enclosures.

Copied by

Examined by

WD-05448-GPB—P.Z.S.— 90,000—20-9-56.